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Authority EG 12958By AR NARA Date 10/27

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PA/HO Department of State

E.O. 12958, as amended

July 12, 2005

MEMORANDUM

THE WHITE HOUSE

WASHINGTON

20407

SEABEDS

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August 8, 1970

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MEMORANDUM FOR HARRY DENT

FROM: Henry A. Kissinger *AK*

SUBJECT: The President's Decision on Seabeds

Your July 13 memorandum mentioned the concern of some Republican Congressmen over the President's seabeds decision. You asked whether something could be done about this matter, citing Congressman Bush's feeling that the proposal should be reversed or put under reconsideration as soon as possible.

In brief, the President has firmly decided our basic course on this matter, many details remain to be worked out, and there are some useful points which you could make to concerned Congressmen.

The President's Decision

This complicated problem was studied exhaustively in the bureaucracy by all interested agencies, including Interior. The government drew upon outside studies, the views of the oil and other interested industries and the opinions and hearings of interested Congressional committees. On the basis of an interagency study, as well as individual positions from State, Interior and Defense, the President issued a formal decision memorandum which was reflected in his public announcement on May 23 concerning US oceans policy (Tab A). Since that date, as foreshadowed by the President's announcement, the agencies worked on a draft treaty which was submitted on August 3rd to the United Nation's Seabeds Committee. During the course of this process the government consulted with representatives of the oil and other industries. The draft treaty is only illustrative and that the process of negotiating an international seabeds treaty will be intricate and prolonged.

As outlined in the President's announcement the basic thrust of his decision is to combine a 200 meter depth limit for national sovereign rights over resources; a trusteeship zone for the continental margins beyond the 200 meter depth in which coastal states would act as trustees for the international community; and an agreed international machinery to authorize and regulate exploration and use of seabed resources beyond the continental margins.

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Clearly, the oil industry would have preferred a much wider area of national jurisdiction than that contained in the President's proposal. On the other hand, --for your information-- his decision did not go as far in the other direction as the position recommended by the Department of Defense which would not have given the coastal states trusteeship over the continental margins and would have given much wider powers to the international community.

The President's decision on the whole has gotten very enthusiastic comment from a wide spectrum in the media, in the Congress, from many industries, and from other countries. Many have called it a bold and imaginative move of great potential importance for the world community. The President's proposal for a seabeds convention arose from his concern to counter the rapidly rising threat to broad national security interests -- principally the following:

- our global military mobility (especially by free passage through international straits);
- freedom of certain military activities on the continental slope (which for obvious reasons we are not emphasizing or specifying); and
- the avoidance of jurisdictional conflicts with coastal states (as, for example, those that have arisen with Peru and, more recently, Canada).

The objective of the President's decision is to protect these basic interests against the proliferation of unilateral claims by coastal states to extensive and exclusive jurisdiction throughout the whole water column for commercial, anti-pollution, and other purposes. Realistically, the only alternative to a chaos of such unilateral claims is the creation of multilateral arrangements.

The seabeds convention is a crucial move in this direction. If the U.S. were to remain content with the existing legal ambiguities with respect to the seabeds or were to assert exclusive sovereign rights or jurisdiction over the whole continental shelf and margin, it would be in no position to protect its global interests against comparable actions by other coastal states.

Talking Points for Congressmen

In talking to Congressman Bush and others I hope you will find useful the above information, the text of the President's announcement, and then

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Under Secretary Richardson's Congressional testimony on the President's decision (Tab B). In particular I would suggest that you stress the following points:

-- While the President has firmly fixed our general policy course on this subject, many details remain to be worked out and the government will continue to consult interested industries and the Congress as we move forward in international negotiations.

-- The President, in making his decision, had to take into account a host of military, political and economic factors. (I suggest you highlight the ones I have noted above about our global military mobility; military activities on the continental slope; the avoidance of jurisdictional and political conflicts with coastal states; and the protection of our own commercial and military interests against claims by other states.)

-- The President's decision will not jeopardize the essential commercial and resource interests of the U.S., including the interests of U.S. seabeds oil exploration and exploitation. It would give coastal states the exclusive authority to license for exploration and exploitation in the trusteeship zone beyond the 200-meter depth, subject only to international rules and regulations designed to prevent pollution, protect scientific exploration, etc. The proportion of royalties resulting from exploitation in this zone that would be allocated to international economic assistance has yet to be determined, but clearly the terms would have to be sufficiently attractive for commercial firms to induce them to exploit seabed resources.

If you would like more details on this complex and important subject, Robert Osgood of my staff, who has been following it closely for many months, would be available to give you further background.

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